

REMARKS

In the Office Action mailed March 25, 2008, the Office noted that claims 1-5, 10 and 11 were pending and rejected claims 1-5, 10 and 11. Claims 1, 3-5 and 10 have been amended, claims 2 and 11 have been canceled, claim 12 has been added, and, thus, in view of the foregoing, claims 1, 3-5, 10 and 12 remain pending for reconsideration which is requested. No new matter has been added. The Office's rejections are traversed below.

REJECTIONS under 35 U.S.C. § 101

Claim 11 stands rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. In particular the Office asserts that claim is drawn to a program and is per se non-statutory.

Claim 11 has been cancelled.

Withdrawal of the objection is respectfully requested.

REJECTIONS under 35 U.S.C. § 102

Claims 1-5, 10 and 11 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Narumi, U.S. Patent Publication No. 2003/0185121. The Applicants respectfully disagree and traverse the rejection with an argument and amendment.

Narumi discusses an optical information recording device where a second layer is recorded through a first layer.

On pages 3 and 4 of the Office Action, it is asserted that Narumi discloses the features of claim 1. The Applicants have amended claim 1 to recite "said calculating device

calculates the optimum power by correcting correlation information which indicates a correlation between reproduction quality of the test information and the recording power." Support for the amendment can be found, for example, in claim 2.

On page 4 it is asserted that Narumi ¶ 0156 discloses calculating the optimum recording conditions based on the recorded and unrecorded states.

However, Narumi ¶¶ 0158 and 159 state

In the case of an optical disc in which the amount of transmitted light in a recorded state is s times the amount of transmitted light in an unrecorded state, where the optimum recording power obtained by performing test recording in an unrecorded state is P_m , the optimum recording power **P_k in a recorded state can be calculated as follows.**

$$P_k = P_m / s$$

Here, " s " is defined as the transmittance correction coefficient. By such a calculation, even when information is not recorded in a specific area of the first information recording layer 1020 in advance, the optimum recording power in the case where the area of the first information recording layer 1020, **through which the laser light passes, is in a recorded state can be estimated.** [Emphasis added]

Thus, in Narumi the optimum recording power P_k in a recorded state is calculated by using the equation $P_k = P_m / s$, where " P_m " is the optimum recorded power obtained by performing test recording in an unrecorded state, and " s " is the transmittance correction coefficient). Narumi uses this information to estimate the optimum recording conditions. Narumi does not correct correlation information which indicates a correlation between reproduction quality of the test information and the

recording power.

Claim 10 has been amended in a manner consistent with the amendment of claim 1. For at least the reasons discussed above, claims 1 and 10 and the claims dependent therefrom are not anticipated by Narumi.

Withdrawal of the rejection is respectfully requested.

NEW CLAIM

Claim 12 is new. Support for claim 12 can be found, for example, in ¶ 0048 of the published Application. The Applicants submit that no new matter has been added by the inclusion of claim 12. The prior art fails to disclose the controlling device controls the recording device to irradiate the laser light having a predetermined waveform which is different from a waveform of the laser light for recording the test information.

SUMMARY

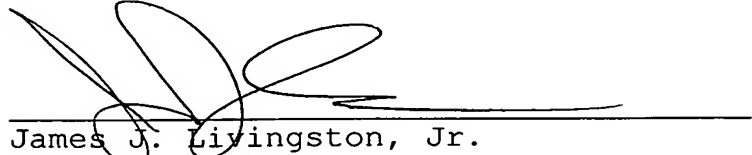
It is submitted that the claims satisfy the requirements of 35 U.S.C. §§ 101 and 102. It is also submitted that claims 1, 3-5, 10 and 12 continue to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

A handwritten signature in black ink, appearing to read "James J. Livingston, Jr.", is written over a horizontal line.

James J. Livingston, Jr.
Reg. No. 55,394
209 Madison St, Suite 500
Alexandria, VA 22314
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

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